

LABOUR DEPARTMENT

The 4th March, 1974

No. 1261-4Lab-74/6853.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Kelvinator of India Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 175 of 1970

between

SHRI ONKAR AND THE MANAGEMENT OF M/S KELVINATOR OF INDIA LTD., FARIDABAD

Present :

Shri Darshan Singh, for the workmen.

Shri Jaswant Singh, for the management.

AWARD

Shri Onkar concerned workman was in the service of M/s Kelvinator of India Ltd., Faridabad as a Helper in the Paint shop. The management dismissed him from service with effect from 27th June, 1970 allegedly on a charge of violence against a co-worker and after holding domestic enquiry. This was disputed by the workman and feeling aggrieved by the order of his dismissal from service he raised a demand for reinstatement which was rejected by the management. This gave rise to an industrial dispute. He gave the demand notice dated 7th June, 1970 whereupon conciliation proceedings were initiated which, however, ended in failure.

On receipt of the failure report from the conciliation officer, the Governor of Haryana referred to the above dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID-FD/57-D/29801-5, dated 23rd September, 1970, with the following term of reference :—

“Whether the termination of services of Shri Onkar was justified and in order ? If not, to what relief is he entitled ? ”

The parties put in their pleadings and the following issues arose for determination in the case :—

- (1) Whether the reference is invalid because the case of Shri Onkar has not been espoused by any other workman and for this reason there is no industrial dispute.
- (2) Whether the reference stands vitiated because no demand regarding the dismissal of Shri Onkar was served on the management by the workman ?
- (3) Whether the proceedings are rendered legally invalid because the workmen have not filed the statement of claim nor have they authorised any one to do so on their behalf ?
- (4) Whether statement of claim cannot legally form the basis of the proceedings because it has been filed on behalf of Shri Onkar only ?
- (5) Whether the General Labour Union has no *locus standi* to act on behalf of the aggrieved workman ?
- (6) Whether the reference is invalid because the demand notice is dated 7th June, 1970 when the claimant was still in the employment of the respondent on that date ?
- (7) Whether the workman has withdrawn his demand notice dated 14th July, 1970 before the Conciliation Officer and, therefore, the reference is invalid and incompetent on this account as well ?
- (8) Whether the termination of services of Shri Onkar was justified and in order ? If not, to what relief is he entitled ?

The management relied upon the enquiry proceedings which were produced in original and Shri Roshan Lal Kapoor, Enquiry Officer, was examined to prove the enquiry record marked Exhibit MW-1/1 the workman himself came into the witness-box without examining any other person and brought on record 2 letters dated 21st July, 1970 and 22nd January, 1970 marked Exhibit W-1 and W-2, respectively.

Arguments have been addressed in both sides and I have been taken through the entire evidence on records Issues Nos. 1 to 7 were decided in favour of the workman by order dated 26th March, 1971 of my learned predecessor. So, the only other issue that arises for determination in the case is on merits as per the terms of reference stated above.

As already pointed out the management dismissed this workman from service allegedly on the ground that on 1st January, 1970 at about 4.35 P.M. he had assaulted co-worker Shri Nanku by giving him blows with a rod causing injuries on his head and both hands, as a result of which he started bleeding and became unconscious. He was given the charge-sheet, dated 2nd January, 1970 regarding this allegation to which he submitted his reply which was considered by the management but found to be not satisfactory and Shri Roshan Lal Kapoor, Chief Security Officer was appointed Enquiry Officer,—vide letter, dated 10th January, 1970. The Enquiry Officer after holding the enquiry gave his findings of guilty against the workman on 27th August, 1970 which was considered by the management and, taking into consideration the serious nature of charge of misconduct established against him in the enquiry he was not considered to be a fit person to be kept in service and hence the impugned order of his dismissal from service. The workman has filed objections and challenged the validity of the enquiry.

So, the first and foremost question that arises for determination in the case is with regard to the validity or otherwise of the said enquiry. As would be clear from the facts on record, the charge of misconduct was clearly communicated to the workman and he had filed his reply to the same of course denying the allegations levelled against him. The management was not satisfied with his explanation and was, therefore, within its right to order an enquiry into the matter. There is nothing on the record to indicate that the Enquiry Officer Shri Roshan Lal Kapoor, Chief Security Officer was in any way prejudiced against the workman nor has it been shown that he was a witness of the occurrence. He held the enquiry after due notice to the workman in which he fully participated. The management examined 6 witnesses including Sarvshri Nanku complainant Om Prakash Chopra, Foreman, A.N. Ahuja, Personnel Officer, Jiwan Lal, Helper in the Paint Shop witness of the occurrence, Madan Lal, Compounder B.K. Hospital, Faridabad and S.S. Sethi, Quality Control Manager. The above version of the management found full support in the testimony of the aforesaid witnesses. On receipt of information about the occurrence Shri S.S. Sethi, Quality Control Manager had reached the spot and found Shri Nanku lying injured in the Paint Shop and in a state of unconsciousness. He informed Shri Ahuja and Chopra and a report about the incident was sent to the B.K. Hospital on prescribed form No. 18 which was proved by the Compounder Shri Madan Lal. Shri Onkar concerned workman was given full opportunity to cross-examine all the witnesses of the management.

A perusal of the enquiry record further shows that he was given adequate opportunity to produce his defence. He made his own statement besides examining 2 witnesses namely Kalp Nath Chobe and Moti Lal, according to whose version Shri Nanku had slipped while running after Shri Onkar and sustained the injuries.

After giving a very careful consideration to the material of record, I do not find anything wrong with the enquiry held against this workman into the charge of assaulting a co-worker and causing serious injuries to him while on duty, the enquiry had been held by an independent person who was in no way prejudiced against this workman and he had given him full opportunity to defend himself which was actually availed by him. The management had considered his explanation to the charge-sheet and supplementary applications Exhibits W-1 and W-2 made by him but disbelieved his version that the aforesaid injuries on the person of Shri Nanku were self sustained. There is no evidence of victimisation on *mala fides* on the part of the management in taking the impugned action of dismissal from service against this workman which in the circumstances, cannot by any stretch of imagination be considered to be harsh or not commensurate with the offence committed by him. The learned representative of the workman has not been able to satisfy me that the enquiry officer had violated any principal of natural justice in holding the enquiry or that his findings of guilty against this workman were in any way perverse.

So, on the facts established and for the reasons aforesaid, the issue involved in the case is decided against the workman holding that the order of his dismissal from service was justified and in order and in the result, he is not entitled to relief by way of re-instatement or re-employment. The award is made accordingly but without any order as to costs.

Dated the 24th January, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 210, dated 31st January, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.